

## Mergers

### Why consider merging?

Mergers are entered into for a variety of reasons including ensuring survival, succession planning for retiring GPs, ways of building extra capacity, future-proofing the practice by combining forces and operating at scale and GPs wanting control over provision of services in their area.

A merger needs to make sound business sense for the GPs involved, as well as having beneficial effects for patients. Ensuring that this is so will improve your case when applying to NHS England and the Clinical Commissioning Group for permission to proceed with the change.

### Merger versus collaboration

It is important to consider whether a full business merger is required for the purposes that you are considering do so. In many cases it may be more beneficial and less risky to work with colleagues in other practices on set projects or in sharing functions/processes whilst remaining independent practices and stopping short of combining contracts or closing premises etc.

You need to consider why you want to merge practices.

### The merger process

It is important to approach practice mergers in a coordinated and structured way to ensure that all of the various areas to consider are addressed in a timely fashion, reducing the risk of nasty surprises.

We would suggest that the following be considered as a logical sequence of events to follow when proceeding with merger plans and we take each item in turn to advise you of what you need to consider at each step:

1. Answer the vital question, “**Why do we want to merge practices?**”
2. **Consult with your local CCG and NHS England** to ensure that your plans are likely to be supported by the commissioning organisations.
3. **Undertake due diligence** on the other merging party/parties to ensure that the merger makes sound financial, business, cultural and practical sense for you, the commissioners and, of course, the patients (this should arguably be the most time-consuming part)
4. Decide on the **contractual implications of the merger**.
5. **Apply to NHS England** to officially request permission to merge practices.
6. **Carry out staff consultation** on the implications of the merger for them.
7. **Carry out patient consultation** on the implications of the merger for them.
8. **Go Live!**

## **1. Why do we want to merge practices?**

This is a very simple but most vital question for GPs to ask themselves at the outset when considering a merger but also at every stage along the process to ensure that sight is not lost of the driver for merging.

The reasons for merger must be clear. It may well be that merger has never been considered before and then another GP/practice has approached you to see whether you have an appetite to merge. Alternatively, you may have learned of a situation where another practice is vulnerable and may be receptive to an approach to merge or you simply find that you have a lot in common with a neighbouring practice and it makes sense to join forces, particularly where practices are co-located in the same building.

There may well be times when merging seems complicated and difficult which tests the resolve of the merging parties; it is as at such times that it is important to remember the reason for the merger in the first place which can help to galvanise the merging parties. It is important to go into it with unity of vision and also helps the transition for the staff from the individual practices, include them from early on in the process to tease out any issues that may arise early on.

## **2. Consult with your local CCG and NHS England**

Getting an early sense check on the viability of the proposed merger would be crucial before investing much time in the planning stages. With co-commissioning now in place it is even more important now that your plans fit in with the overall primary care strategy for your area. NHS England would normally prefer that a merger be put in place at the end of the financial year to start as a new entity on 1<sup>st</sup> April but we do see mergers take place throughout the year.

This sense-check can be performed informally to check whether the commissioners are likely to support the proposals; we have seen issues where practices have experienced problems with gaining support, notably in examples where the parties come from different CCG areas or where there are performance issues with any of the practices involved.

## **3. Undertake due diligence**

In many ways this is the most important step to pay attention to throughout the whole process and it is likely to be the most time-consuming and resource-sapping step of all. The effects of not carrying out adequate due diligence can last as an unwelcome legacy for years after a merger if not paid appropriate attention at the pre-merger stage. Find out each other's strengths and weaknesses and when carrying out due diligence check the following:

- Spend time with GPs that you will be working with to ensure that you have shared values and develop a shared vision for the new practice. This will ensure there is a good cultural 'fit' between the practices

- Look at sessional commitments of GPs, future plans and profit-share implications
- View the full accounts of the other party/parties, you may want your accountant to check the financial health of the other party/parties. Consider your choice of accountants for the newly-merged practice as this will be crucial to your ongoing success as a practice
- Ask for the cost per patient of the administration, reception, secretarial, management and nursing staff
- Check staff contracts and the staffing structure. Any redundancies needed? TUPE implications? Differences in pay scales, whether to equalise in time. Legal advice is well-advised in the area of human resources
- Check existing partnership agreement and work towards a new agreement for merged partnership. It may be that an interim agreement is required while the transition to a merged practice is in process. Legal help may be required to ensure a robust and fair agreement. Often partnership agreements are signed at the outset and then it is assumed that they may not be referred to again; in our experience once an unforeseen problem arises within the partnership it is the partnership agreement that is often the first point of reference so take time to get it right
- Ask how holidays, study leave, sabbaticals, internal/external locums etc. are organised
- Check on any MPIG/PMS Premium values being reduced from contract and decide on the contractual model for the new practice (see section 4.)
- Look at weighting (Carr-Hill formula) and expected income levels
- Check on premises costs and liabilities. Is a lease in place? Capital buy-out? Take legal advice on this area
- Consider if you want to keep both/all sites open or relocate your services to one existing or new site. What is the financial case for each scenario?
- Look at financial performance and quality markers e.g. QOF, DES, Locally-Commissioned Services
- Look at the other party/parties to see if any work is needed to standardise levels of service e.g. notes summarising and data quality standards
- Decide on IT systems both general and clinical systems. If the merging parties use different clinical systems e.g. SystmOne and EMIS you may need to decide which one to continue using and need assistance to merge the patient records safely
- Check on the CQC rating and reports for the other party/parties to see if any remedial work is required to get them up to a 'Good' rating. Also check the CQC registration

details for the other practice to ensure correct registration and statement of purpose. You may need to take advice on what registration changes are required.

#### **4. Contractual implications of the merger**

There are different ways to merge your practices.

You may decide to merge both patient lists onto a new unified contract; if you have a PMS premium that is being clawed back you will lose that sum in an instant.

It is possible to merge your practices but maintain separate contracts with NHS England which would mean keeping your patient lists separate even if all GPs are parties to both lists, this is a business merger without combining your lists and may happen where practices continue to operate on separate sites but as one business entity. Caution - Merging the patient lists on the clinical systems by default merges your contracts too even if you meant to retain two separate contracts under one business partnership.

##### **Example**

A PMS practice has been approached by a GMS practice which would like the PMS practice to take them over and make the GPs in the GMS practice salaried.

One way to do this is as follows:

The PMS and GMS contracts can join in partnership, effectively merging their practices. Partnerships can hold more than one type of contract so this should not be a problem. However all partners should be aware of the changes in their liability; partners will be jointly and severally liable for the GMS contract, but the liability for the PMS contract will be determined by the individual agreement.

The GMS practice will need to inform the CCG/NHS England of the changes to its partnership as the contract is held with the practice (PMS agreements are held by individual GPs). By starting the takeover as a merger, the practices will help to preserve both contracts.

Once the practices are merged they can begin to make changes to their organisation. If the GMS doctors wish to become salaried, those involved can split from the other partners, nominating them as successors to the contract. If agreed by the CCG/NHS England (which it should be unless the CCG believes the action will harm patient care) the contract will continue and the contractors can employ the old partners as salaried GPs.

If the two practices want to move to operating only under the PMS contract, the GPs should talk to the CCG/NHS England and seek a variation in the existing PMS contract to allow the GMS GPs to become part of the contract. Eventually the GMS practice should be able to resign its GMS contract.

It is possible to merge and keep the separate contracts which is particularly relevant when one of the parties is a high-earning PMS practice and merging to a GMS contract would immediately see their PMS 'Premium' get wiped out.

## **5. Apply to NHS England**

You will need to complete an application form to NHS England to ask for approval of your plans. The application covers the following and it useful to consider these points in the planning stages:

- Name and addresses of merging parties
- Contract type of merging parties
- Preferred future contract arrangement
- Details of locations to work from post-merger including nomination of main branch for admin purposes
- Name of CCG that the merging parties are members of and proposed CCG of the merged practice
- Benefits to patients of the merger and negatives with mitigating actions
- Benefits to NHS England/CCG of the merger
- Details of financial savings for or investment needed by NHS England/CCG
- Details of any new models of care proposed as part of the merger
- Information on how patients will continue to get access to improved service with consistent provision
- Proposed communications plan for patient engagement to ensure patient choice throughout
- Merger 'go live' date

## 6. Carry out staff consultation

You will need to keep the staff onside throughout this process and ensure that regular communication is maintained throughout.

Timing will be important here as you won't want to scare staff or get them involved too soon if you are not sure whether it will go ahead but they will hear rumours and fill in the gaps where no 'official line' has been taken and explained. They will naturally feel unsure and unsettled about their own job security and culture that they are used to working in.

As well as consulting the staff, look to involve them in the planning for the post-merger period where new ways of working may come in and training needs emerge. If staff feel empowered, you may find the process much easier than if you do not work with them.

Look to take legal advice when carrying out changes to the human resources side of the business to ensure that changes are made appropriately, in a timely fashion and with regard to current employment law

## 7. Carry out patient consultation

It is important to satisfy the Overview and Scrutiny Panel at the Local Authority (OSP) that adequate patient engagement has been carried out with all patients affected as part of the merger. This merger may be considered a major service change (especially if it involves closure of one of the current premises) and therefore a formal period of consultation may well be required.

To satisfy the OSC you will need to spell out how you will engage with patients and would need to consider all or some of the following as examples of engagement activities:

- Posters in waiting room
- Notice on practice website
- Notes on right-hand side of prescriptions
- PPG meetings and local consultation events
- Letters to local households
- Advert in local newspaper

## 8. Go Live!

Once all of the previous areas have been addressed you will be in a position to go live and merge as practices into a new entity. Steps to consider in the operational stage of the merger will include:

- You may need to register as a new provider to the Care Quality Commission
- Inform suppliers of new address/points of contact
- Inform stakeholders of details of new entity including location/email addresses/website/identity of senior partner/practice manager etc.
- Change bank details – signatories to the account etc.
- Update website with details of GPs/staff/services etc.
- Update the partnership agreement (create a new partnership agreement)
- Check if there are implications on the ownership of the premises